

Claim 36, line 8: ~~change~~ "differences" to -- any difference --

RECEIVED**DEC 18 2007**REMARKS

Claims 27-36 will be pending. At present, none of these claims have been allowed. ^{TECH CENTER 1600/2900}

Applicants have amended claims 35 & 36 such that the rejections under 35 USC § 112, as set forth at points 3 & 4, are believed overcome. With respect to claim 36, the examiner appears to be importing material into the claim that is not present. A "difference" is an understood term. Applicants have not recited levels of difference, because such is not necessary with respect to the claim. The rejection is believed to be improper, and should be withdrawn.

Claims 27-35, but not claim 36, have been rejected under 35 USC § 103 over Skolnik, et al., Cell 65:83-90 (1991), in view of Carpenter, et al., J. Biol. Chem 265(32): 19704-19711 (1990). Applicants have studied the rejection carefully and now traverse.

Skolnik teaches the cloning of a p85 molecule associated with PI3 kinase, and alleges that p85 is found associated with a 110kd tyrosine phosphorylated protein. Nothing is said in this reference with respect to the DNA encoding this protein.

The examiner cites Carpenter as rendering what is claimed obvious, when combined with Skolnik.

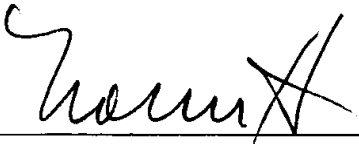
Carpenter teaches DNA encoding a rat PI3 kinase of 110 kilodaltons. There is no mention therein with respect to human p110, which is what is recited in the claims.

It cannot be assumed that, by using information relating to a rat molecule that one of ordinary skill could reasonably expect to secure information relating to a human molecule. See, e.g., Amgen Inc. v. Chugai Pharmaceutical Co. Ltd., 18 USPQ 2d 1016, 1023 (Fed. Cir. 1991). Also relevant is the Federal Circuit's decision in In re Deuel, 34 USPQ 2d 1210 (Fed. Cir. 1995), because the nucleic acid molecules used in the present claims were deemed patentable over the Carpenter reference. See US Patent Nos. 5,846,824 and 5,824,492 in this regard. USPTO precedent supports the patentability of the claims. Also note 35 USC § 103(c), which is relevant here.

It is submitted that the claimed invention is clearly patentable over the applied references,
and a holding to that end is urged.

Respectfully submitted,

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